

## Calendar No. 791

110TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
110-359

### BATTLEFIELD IN SHEPHERDSTOWN, WEST VIRGINIA, RESOURCE STUDY ACT

JUNE 16, 2008.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural  
Resources, submitted the following

### R E P O R T

[To accompany S. 1633]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1633) to authorize the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including the battlefield and related sites of the Battle of Shepherdstown in Shepherdstown, West Virginia, as part of Harpers Ferry National Historical Park or Antietam National Battlefield, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 2, lines 21 and 22, strike “section 8(a) of Public Law 91-383 (16 U.S.C. 1a-5(a))” and insert “section 8(c) of Public Law 91-383 (16 U.S.C. 1a-5(c))”.

#### PURPOSE

The purpose of S. 1633 is to authorize the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including the battlefield and related sites of the Battle of Shepherdstown, as part of the Harpers Ferry National Historical Park or Antietam National Battlefield.

#### BACKGROUND AND NEED

The Battle of Shepherdstown took place on September 19, 1862, on the banks of the Potomac River, less than one mile downstream from present-day Shepherdstown, West Virginia, and only two days after the catastrophic battle at Antietam. Other important Civil

War battles took place in close proximity to Shepherdstown, including the battle at Harpers Ferry.

The battlefield site covers approximately 300 acres, and includes many different land owners. Because of the threat of development, there is an interest in preserving as much of the site as possible.

S. 1633 would authorize the Secretary of the Interior to study the battlefield and related sites, to determine whether any of the sites would be appropriate for inclusion in the National Park System, specifically as an addition to Harpers Ferry National Historical Park or Antietam National Battlefield.

#### LEGISLATIVE HISTORY

S. 1633 was introduced by Senator Byrd on June 15, 2007. The Subcommittee on National Parks held a hearing on this bill on April 9, 2008.

At its business meeting on May 7, 2008, the Committee on Energy and Natural Resources ordered S. 1663 favorably reported, with an amendment.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on May 7, 2008, by a voice vote of a quorum present, recommends that the Senate pass S. 1633, if amended as described herein.

#### COMMITTEE AMENDMENT

During the consideration of S. 1663, the Committee adopted a technical amendment to correct the citation to the National Park Service General Authorities Act.

#### SECTION-BY-SECTION ANALYSIS

Section 1(a) directs the Secretary of the Interior to complete a special resource study of the Battle of Shepherdstown to evaluate the national significance of the Shepherdstown battlefield site and to assess the suitability and feasibility of adding the site as a part of Harpers Ferry National Historical Park or Antietam National Battlefield.

Subsection (b) directs the Secretary to use the criteria for new area studies described in section 8(c) of Public Law 91-383 (16 U.S.C. 1a-5(c)).

Subsection (c) directs the Secretary to submit the study to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources not later than 3 years after the date which funds were first made available

Subsection (d) authorizes the appropriation of such sums as are necessary to carry out this Act.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

*S. 1633—A bill to authorize the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including the battlefield and related sites of the Battle of Shepherdstown in Shepherdstown, West Virginia, as part of Harper Ferry National Historical Park or Antietam National Battlefield*

S. 1633 would require the National Park Service (NPS) to conduct a study to determine the suitability and feasibility of including certain sites in West Virginia related to the Battle of Shepherdstown in either the Harpers Ferry National Historical Park or the Antietam National Battlefield. Based on information provided by the NPS and assuming the availability of appropriated funds, CBO estimates that carrying out the proposed study would cost about \$300,000 over the 2009–2012 period. Enacting the legislation would not affect direct spending or revenues.

S. 1633 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1633. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1633, as ordered reported.

#### CONGRESSIONALLY DIRECTED SPENDING

S. 1633, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined by rule XLIV of the Standing Rules of the Senate.

#### EXECUTIVE COMMUNICATIONS

The testimony provided by the National Park Service at the April 23, 2008 hearing on S. 1633 follows:

STATEMENT OF KATHERINE H. STEVENSON, ACTING ASSISTANT DIRECTOR, BUSINESS SERVICES, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on S. 1633, a bill to authorize the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including the battlefields and related sites of the Battle of Shepherdstown in Shepherdstown, West Virginia, as part of Harpers Ferry National Historical Park or Antietam National Battlefield in the National Park System.

The Department supports S. 1633. However, the Department feels that priority should be given to the 32 previously authorized studies for potential units of the National Park System, potential new National Heritage Areas, and potential additions to the National Trails System and National Wild and Scenic River System that have not yet been transmitted to the Congress.

S. 1633 would authorize the Secretary to carry out a special resource study to determine the national significance of the Shepherdstown battlefield and related sites in Shepherdstown, West Virginia associated with the Civil War. The study would examine whether the area could be included in the Harpers Ferry National Historical Park or the Antietam National Battlefield. The bill also requires the Secretary to submit a report to Congress no later than 3 years after the date on which funds are made available to carry out this study.

General Robert E. Lee invaded the North, with the intention of bringing Maryland into the Confederacy. Lee had a number of strategic reasons for the move. First, Lee's troops were in much need of military aid and supplies and Maryland's lands were rich in crops and untouched by battle. Second, Lee saw Maryland as a stepping stone to Pennsylvania, where he could draw the Union Army into a battle on ground of his own choosing. He could then threaten the cities of Washington, Baltimore, and Philadelphia and perhaps end the war in a short time. Finally, General Lee hoped that another Confederate Victory, this time on Union soil, might also persuade Great Britain and France to grant diplomatic precognition to the South.

As he had done before, Lee divided his army and sent "Stonewall" Jackson in to capture the Federal arsenal at Harpers Ferry, with its huge store of supplies. But the people of Maryland looked on the hungry troops as invaders who had come to plunder their land. Another unfortunate thing happened. A Union private was resting near Frederick, Maryland and noticed an envelope in the grass. It was a copy of General Lee's order to his generals outlining his plans. The paper was soon in the hands of General George B. McClellan.

The Battle of Shepherdstown, also known as the Battle of Boteler's Ford, was fought on September 19 and 20, 1862. There were over 600 casualties. General Lee had moved most of his army back across the Potomac River into Virginia leaving 44 cannons to form an artillery reserve to protect the vital crossing point on the Potomac. General McClellan had given orders to pursue the enemy across the Potomac. In the confusion of battle, General Lee received an erroneous report that his cannons had been captured. Reacting to this misinformation, the Confederates sent a force back to recover the artillery. In the skirmish that followed on the bluffs of the Potomac, a large number of inexperienced Union troops with faulty equipment were killed. This convinced General McClellan

that the Confederate Army was still full of fight and he decided to delay any further effort to pursue until reinforced. The battle was considered a Confederate victory.

The Battle of Shepherdstown was the final engagement of the Maryland Campaign of 1862 that included the battles of Harpers Ferry, South Mountain, and Antietam and ended the Confederacy's first invasion of the North. The National Park Service has provided information and interpretation on the Shepherdstown site at Harpers Ferry National Historical Park and Antietam National Battlefield for over 20 years.

A special resource study would provide alternatives for the appropriate way to preserve, to protect, and to interpret the Battle of Shepherdstown sites and resources. We estimate that the costs of completing this study would be approximately \$250,000 to \$300,000.

That concludes my testimony. I would be happy to answer any questions you or other members of the subcommittee may have.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 1633, as ordered reported.

